

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

AMBER ADKINS and
JAMES ADKINS,

Plaintiffs,

v.

Civil Action No. 2:23-cv-00745

ZACHERY RATLIFF,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is the plaintiffs' Motion to Substitute Individual Plaintiff, filed September 20, 2024. ECF 43. For the reasons discussed herein, and for good cause shown, the motion is GRANTED.

This action arises out of an automobile accident allegedly caused by defendant, wherein plaintiffs Amber Adkins and James Adkins were injured. Plaintiff James Adkins died on July 29, 2024, for reasons unrelated to the automobile accident. ECF 43 at ¶ 1. Upon his death, plaintiff James Adkins's daughter, Eva Jene Blackburn, was appointed Administratrix of the Estate of James Edward Adkins by probate order dated September 4, 2024, by the Clerk of the Mingo County Commission. See ECF 43-1. In her capacity as administratrix, Ms. Blackburn

seeks to substitute the Estate of James Adkins in the place of James Adkins, individually. ECF 43 at ¶ 3.

Federal Rule of Civil Procedure 25(a) provides in pertinent part:

- (1) Substitution if the Claim is Not Extinguished. If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

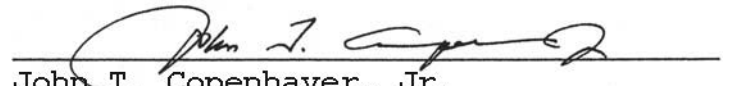
Fed. R. Civ. P. 25(a). Furthermore, "[b]ecause the purpose of Rule 25(a)(1) is to protect the estate of the decedent, district courts must ensure only 'those individuals who can adequately represent the interests of deceased party' are substituted under the Rule." In re Baycol Products Litig., 616 F.3d 778, 788 (8th Cir. 2010) (quoting Sinito v. U.S. Dep't of Justice, 176 F.3d 512, 516 (D.C. Cir. 1999)). As the Advisory Committee notes to Rule 25 explain, "[a] motion to substitute made within the prescribed period of time will ordinarily be granted."

It is clear that plaintiff James Adkins's death necessitates the substitution of his estate, and the substitution is properly made under Rule 25.

The plaintiff's motion is GRANTED, and it is hereby ORDERED that Eva Jene Blackburn, Administratrix of the Estate of James Adkins, deceased, be substituted in the place and stead of James Adkins.

The Clerk is directed to transmit copies of this order to all counsel of record and any unrepresented parties.

ENTER: September 23, 2024


John T. Copenhaver, Jr.
Senior United States District Judge